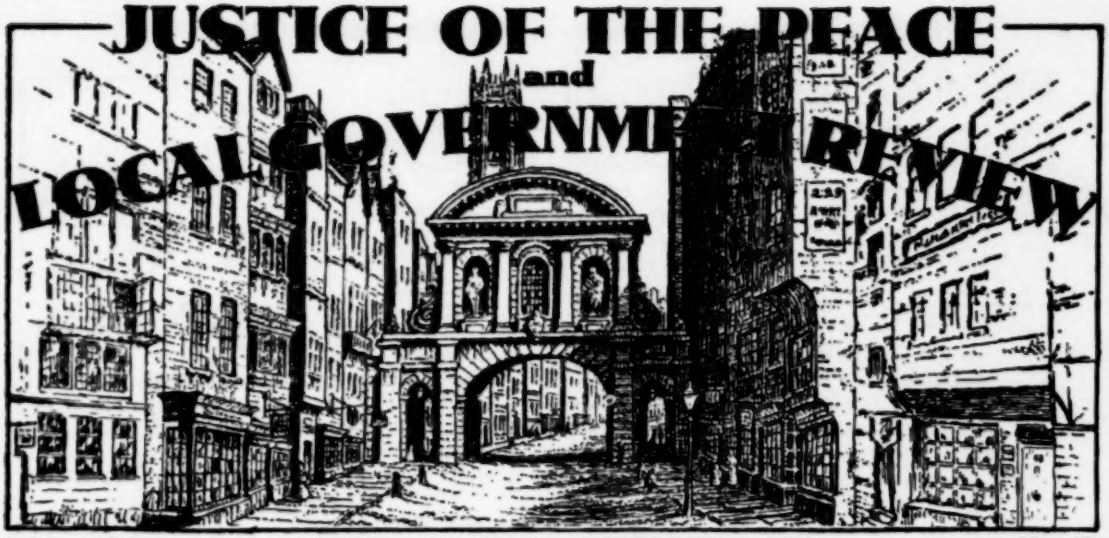

VOL. CXVI LONDON: SATURDAY, NOVEMBER 8, 1952 No. 45

CONTENTS

REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt 10 a.m. Thursday*

Published by JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex

Telephone: CHICHESTER 3637 (P.B.E.) *Telegraphic Address:* JUSLOCGOV, CHICHESTER

NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note:* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

SITUATIONS VACANT

SOLICITORS require gentleman to act as Cashier and as Assistant to one of the Partners, who is a part-time Clerk to the Justices (fortnightly sittings). The gentleman appointed must have experience of Solicitors' book-keeping and of the books and records kept by a Magistrates' Clerk and of the issuing of process. Salary according to experience but not less then £520 per annum. Assistance with housing if required. Please state age, experience and whether married or single and send three copy testimonials. Box B.17, Office of this paper.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU T. E. Hoyland. **Ex-Detective Sergeant.** Member of B.D.A., F.B.D., Associated American Detective Agencies, and the World Secret Service Association. Confidential enquiries; Divorce, etc.; Over 600 agents in all parts of the World. Over twenty-five years C.I.D. and Private Detective Experience at your service. 1, Mayo Road, Bradford. Tel.: 26823 day or night.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

COUNTY OF BUCKINGHAM

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of a Full-time Male Probation Officer to serve in the Slough area of Bucks. Applicants, other than serving Probation Officers, must not be less than twenty-three or more than forty years of age.

The appointment will be subject to the Probation Rules and the salary paid will be according to the scale prescribed in the Rules. The successful applicant may be required to pass a medical examination. Applications, stating age, present position, qualifications and experience, together with the names of at least two referees, should reach the undersigned not later than November 29, 1952.

GUY R. CROUCH,
Clerk of the Peace.

County Hall,
Aylesbury.

BOROUGH OF WEDNESBURY

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors for this established appointment at a salary according to A.P.T. Grade VIII of the National Scales (£760—£835) plus a car allowance if appropriate. Previous local government experience is desirable but is not a condition of appointment.

The appointment is subject to the National Scheme of Conditions of Service, to the Local Government Superannuation Act, 1937, to a medical examination, and to termination by two months' notice in writing at any time on either side.

Applications stating age, education, qualifications, experience (especially in conveyancing and advocacy), present and previous appointments, and the names and addresses of three persons to whom reference can be made, endorsed "Deputy Town Clerk," must be delivered to the undersigned not later than November 22, 1952.

G. F. THOMPSON,
Town Clerk.

Town Hall,
Wednesbury.

ESSEX PROBATION AREA

Appointment of Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time Female Probation Officer.

Applicants must not be less than twenty-three, nor more than forty years of age, except in the case of serving probation officers.

The appointment will be subject to the Probation Rules, 1949, and the salary will be according to the scale prescribed by those Rules.

Applicants should be able to drive a car.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than three recent testimonials, must reach the undersigned not later than two weeks after the appearance of this advertisement.

W. J. PIPER,
Clerk of the Peace and of the Probation Committee.

Office of the Clerk of the Peace,
Tindal Square,
Chelmsford.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXVI. No. 45. LONDON : SATURDAY, NOVEMBER 8, 1952

Price 2s. 3d. (including Reports)
Price 1s. 3d. (without Reports)

Pages 707-722

Offices : Little London, Chichester, Sussex.

[Registered at the General Post Office as a Newspaper.]

NOTES of the WEEK

Probation

The European Seminar on Probation, organized by the United Nations and held in London from October 20 to 30, has aroused considerable interest and will no doubt prove the forerunner of many similar conferences. Distinguished speakers from many countries read papers and there were discussion groups to enable delegates to exchange opinions and experiences freely. This kind of interchange between representatives of countries possessing different systems of law and with various ideas upon probation, suspended sentence and similar methods, must prove profitable to all those who are engaged in this constructive work.

The publication by the Home Office of a small booklet entitled "The Probation Service, its Objects and its Organization" is opportune. It will reach magistrates, clerks, and other officials in this country, but we hope it will also be in the hands of all the delegates from other countries who have attended the seminar.

The new booklet replaces a booklet published under the same title before the Criminal Justice Act, 1948, was passed. It deals briefly with the whole range of the subject from the inception of probation down to the present organization and administration, including the work of probation committees and case committees, the training of officers and the varied duties they now perform. Only a few statistics are given, but enough to show that probation is now extensively used and is meeting with a marked degree of success.

In addition to factual information there are some useful observations which justices and others may like to note. Thus, on the question of special requirements in probation orders, it is said : "The tests of the value of a requirement are that it is likely to help the probationer to keep out of trouble, that he can observe it without undue difficulty if he tries and that the probation officer can ascertain whether it is being observed." Again, as to a probationer's failure to comply with the requirements, the booklet states : "Probation officers are resourceful in dealing themselves with minor lapses, but where there is substantial failure on the part of the probationer to carry out his undertakings the right course is to bring him promptly before the court ; experience has shown that early attention to failure can often prevent complete breakdown." Indeed, the strict duty of a probation officer is to report to a justice, in accordance with r. 55 (4) of the Probation Rules, 1949, any breach of requirement by a probationer, and therefore the probation officer should not, we think, himself decide to overlook any but a really trivial lapse, though the magistrate may decide to do so.

The growth of the Service, and it is a welcome growth, is strikingly shown by figures. There are now about 1,100 whole-time officers and 125 part-time officers, about one third of them women ; in 1938 there were about 400 whole-time and 600 part-time officers employed.

The booklet would make quite pleasant and informative reading for members of the public who if not actively engaged in work of this kind are nevertheless interested in social service and the treatment of offenders. It can be obtained from H.M. Stationery Office, price 1*s.*, by post 1*s.* 1½*d.*

The Howard League for Penal Reform

As usual, the annual report of the Howard League, though quite brief, deals with many matters of interest and importance. This report, which covers the year ended June 30, records, as is stated in the report itself, the history of a year, not so much of achievement as of fresh inquiries and the opening up of new lines of work. Three sub-committees have been set up to deal respectively with cruelty to children, the training of justices and the reform of the criminal law.

As to cruelty to children, the report says : "It is clear that cases of neglect and cases of deliberate cruelty, though hitherto grouped together in the published criminal statistics, do in fact fall into two entirely different categories, and that, contrary to popular belief, the number of cases of real cruelty is small."

Hitherto, the Howard League has concerned itself with the treatment of offenders rather than with the criminal law itself in relation to such matters as what should or should not be a criminal offence. The committee felt, however, that there was a growing opinion that the time is ripe for a revision of the criminal law, and it is hoped that it may prove possible to get together a small group of eminent lawyers who would approach the Home Secretary and urge the setting up of a Criminal Law Revision Committee, parallel to the existing Law Revision Committee which is dealing with civil law. The law of larceny and the law of arrest are given as two examples of subjects with which such a committee might deal.

The Howard League sent a short note to the Royal Commission on Marriage and Divorce, dealing with one point only, namely, the question of imprisonment for non-payment of money due under separation orders. "In Scotland imprisonment under this head has practically ceased to exist, largely as the result of the power of attachment of wages. Under this system the court can order employers of defaulting husbands to deduct the amount of maintenance from wages."

If maintenance orders can be so enforced in Scotland many people in this country would like to know why it is constantly argued that this would not be practicable in England and what

it is that stands in the way of what may be an effective way of securing compliance with such orders. An amendment of the law on this point has often been urged. What it is really desirable to know is what is the attitude of employers in Scotland, and whether they find it a matter of serious inconvenience to have to make these deductions from wages.

Public Houses In New Towns

The Licensed Premises in New Towns Bill received its Third Reading in the House of Commons and was sent to the Lords. It is a short Bill of nine sections and repeals the State management of the liquor trade in the New Towns. It will be remembered that the Licensing Act, 1949, provided for State management of the liquor trade in the New Towns.

Already what was intended to be the first State managed public house in the New Town of Harlow has been let to private enterprise. The "Essex Skipper," as the new Inn is to be called, will be built on commodious lines comprising 1,129 square feet of drinking space and allowing an average of four square feet for each customer. The first experiments in State management of the public house begun in Carlisle and Gretna, will not, therefore, be repeated and on the whole we do not think that public opinion will be sorry. These cases both had their origins in heavy local figures for drunkenness in World War I. The Bill provides for Committees to determine the distribution of licensed premises. Such Committees are to consist of an independent chairman appointed by the Home Secretary with the rest of the composition to be appointed by the Development Corporations and Licensing Justices equally. It is to be the duty of these Committees to consider the requirements of their areas as to licensed premises, the accommodation and amenities to be provided and the facilities to be available for obtaining meals, refreshments, and intoxicating liquor. When they have done this they must formulate proposals for the establishment of licensed premises and the Minister is made responsible for their confirmation after (if he thinks fit) a public local inquiry. Elaborate provisions are made in the Act for the grant of new licenses and for removals in New Towns.

In the course of the Third Reading Debate the Home Secretary (Sir David Maxwell Fyfe, Liverpool, West Derby, C.) drew attention to the substantial financial benefits which would be given to the Development Corporations. In the case of the "Essex Skipper," mentioned above, the brewery will pay a premium of £7,500 and a rent of £1,250 a year on a ninety-nine years' lease. They will also pay the monopoly value. New Towns are expensive institutions and are not going to be adequately financed from the letting of their houses and so they will welcome accretions to their revenue of this kind.

Mr. Ede (South Shields, Lab.) in criticizing the Bill said that it would involve gross difficulties for licensing justices in the new towns. There was no real means of securing that effective public feeling could make itself apparent in the preliminary stages and he hoped that this would be put right in the Lords.

Under the original scheme for State management, public houses in the Essex New Towns were to be called after moths and butterflies; we think that this is an attractive idea which should be productive of charming Inn signs and should be carried on.

Tetau *v.* O'Dea

At 114 J.P.N. at p. 749 we ventured to suggest that s. 27 (2) of the Maintenance Orders Act, 1950, does not over-ride the decision in *Tetau* v. *O'Dea* [1950] 2 All E.R. 695; 114 J.P. 499. The contrary view was expressed in a Home Office circular, and we have no reason to doubt that it was the intention, when that subsection was drafted, to alter the law on this point. Our view was, however, that whatever was intended the wording of s. 27 (2), in an Act dealing with the enforcement and making of orders as between one part of the United Kingdom and another, was not appropriate to affect the position in a case where a child was born outside the United Kingdom. On October 8, 1952, before a Divisional Court (the Lord Chief Justice, Finnemore and McNair, JJ.) an application for mandamus was heard in a case where a metropolitan magistrate refused to grant a summons for an affiliation order to a woman now in this country but who, when the child was born, was domiciled in Gibraltar. The magistrate considered himself bound, on the authority of *Tetau* v. *O'Dea, supra*, to refuse the summons. The High Court supported his refusal. Lord Goddard said: "We gave our decision in *Tetau* v. *O'Dea* on July 24, 1950, and the Maintenance Orders Act of 1950 was passed on October 28 of that year, so there would have been time, had the legislature desired it, to reverse the order and perhaps dealt with it in that Act; though, for myself, I think if that had been done, objection would have been taken that it was outside the long title to that Act, because the long title to that Act is an Act to enable certain maintenance orders and other orders relating to married persons and children to be made and enforced throughout the United Kingdom. When one looks at the Act, I think all the Act is dealing with is such matters as a maintenance order made in England being enforced in Scotland, or one in Scotland being enforced in Northern Ireland, and so forth, so that I do not think the law is in any way altered by that Act."

Lord Goddard must be taken to mean, we assume, the law in the particular matter the court was then dealing with. In this case, the court emphasized, the mother was domiciled abroad when the child was born and there was no question of the case of *R.* v. *Humphrys, Ex parte Ward* [1914] 79 J.P. 66, applying to the application, and the magistrate was right in refusing to issue a summons.

Mr. Justice Finnemore agreed. Mr. Justice McNair stated that he was at first disposed to think that the law might have been changed by s. 27 (2) of the 1950 Act, but, on recommendation, he thought it was possible to read the concluding words of that subsection in a more limited sense as dealing only with a case where the child has been born in some part of the United Kingdom.

We are glad to see that our view, expressed when the 1950 Act was passed, has received confirmation in this decision, and our readers will note that *Tetau* v. *O'Dea* is still good law. The case to which we have referred is *R.* v. *Wilson, Ex parte Pereira, see* p. 683 *ante*.

Nottinghamshire Finances

Mr. J. Whittle, B.Com., A.C.A., F.I.M.T.A., the Nottingham County Treasurer has highlighted the chief features of his county's finances for the year March 31 last in a booklet attractive in form and interesting in content. Each page of statistics is introduced in a statement amplifying the figures by clear explanation and apt comment.

He shows that the population of the administrative county has increased since 1938 by 65,000, or fourteen *per cent.*, to a total of 535,800, while the rateable value has increased by £540,000, or twenty-three *per cent.*, during the same period to £2,891,800. County Council expenditure for the year reached £6,864,000, government grants paying for two-thirds of this total while rate moneys met a quarter. In 1938/39 forty-two *per cent.* of expenditure was met from rates.

The County Finance Committee have been concerned to keep reasonably steady the relationship between balances and expenditure and have made their rate recommendations accordingly. Balances in hand at March 31, 1952, were equal to eleven *per cent.* of gross expenditure and the total county rate for the year was 12*s.* 9*d.*, a penny rate producing £11,525. Capital expenditure totalling £207,600 was met otherwise than from loans during the year.

Both capital and revenue expenditure were dominated by provision for education. £718,000, or seventy-two *per cent.*, of all capital expenditure went to provide new schools or alter those already existing, and £3,695,000, or fifty-four *per cent.*, out of a total revenue expenditure of £6,864,000 was spent on this service. Small holdings expenditure was unusually heavy ; £49,000 being provided out of rates.

The Nottinghamshire members are evidently very much like their brethren in many other parts of the country. Mr. Whittle notes as one of the causes of large underspending on capital estimates : " the tendency of committees to include in the capital Budget every project which they think there is a chance of starting in the year."

Average loan interest during the year was only 3.2 *per cent.* This figure must inevitably increase but rising interest rates are not all loss to local authorities : they can look forward to substantial savings on superannuation fund deficiency contributions.

Mr. Whittle concludes his publication with two interesting pages of costs from which we learn, *inter alia*, that it costs £24 a year to educate a child in a primary school and nearly £45 in a secondary school, that the cost of the police force is just about £1 per head of population, that the ambulance cost per mile is 2*s.* 6*d.*, and the cost of each midwifery case £13 18*s.*

Electrical Enlightenment

The nation should be, and mostly will be, satisfied with the fourth annual report of the British Electricity Authority. The Authority appears to be discharging adequately the duty laid upon it by the Electricity Act, 1947, s. 1, to develop and maintain an efficient, co-ordinated and economical system of electricity supply. Development is a more continuous process than would be narrowly implied from the statutory phrase " to develop and maintain." Narrowly, a stage and a state would be separately implied, *viz.*, as a stage towards the discharge of a dual duty, the development of a system with certain qualities, and, as a state to discharge the second part of the dual duty, maintenance of a system as developed. Weakness of that argument lies in two directions. First, that if the statute had intended those distinctions a time would have been set for completion of development, and, secondly, that the practical effect would be so disagreeable that the possibility of such illogical legislation can be safely ignored. A better and more acceptable interpretation underlies a bright phrase peeping from beneath a bushel in para. 221 of the report, which rightly declares that " the technique of electricity supply and utilization is by no means static, and both supply features and consumers' needs will change as time goes on."

A general review in c. 1 of the report summarizes many important features accompanied by informative discussion in the other seven chapters. Considerable achievements are epitomized in an increase of forty *per cent.* in sales of electricity to consumers in the four years since nationalization in 1948-49 ; this increase is an index of consumers' satisfaction, legitimately regarded as high even allowing for some exceptional circumstances such as persistence of a sellers' market for industrial products generally and a bit of a spree made possible for consumers by the use of low-price assets out of higher incomes yet to undergo the full impact of the rise in costs which they often create. A current and prospective annual rate of capital expenditure of some £150 million by the Authority and Area Boards would have been some £115 million at 1948 prices and will mean additional capital charges of some £2½ million per annum in respect of each year's capital outlay. As some offset, opportunities have been taken to secure substantial economies. For instance, in c. 2, co-operation between the Authority and eight Area Boards in the provision of new points of supply is estimated to save £6½ million in respect of schemes approved in the four years since vesting day ; a decision by a joint engineering committee that a limited amount of overloading of transformers could safely be allowed in certain conditions will enable saving in capital expenditure through greater use of existing and new transformers ; and a wide range of activities undertaken by the Electricity Supply Research Council and a Research Liaison Committee should produce further economies.

The clerk of the weather is given a pat on the back in c. 3 for combining milder conditions with an improvement in the plant position and other factors to reduce load shedding in 1951-52. Considerate regard for public feeling is indicated by careful arrangements to obviate blowing off steam near a cathedral when output was reduced during the funeral of H.M. King George VI. Dire consequences which may ensue from inability to organize effectively is shown by the cascade tripping which deprived Merseyside and adjoining areas of electricity for a period on September 3, 1951. Continuous improvements in connexion with generating plant and fuel supplies is reflected in a steady rise in the average thermal efficiency of plant from 20.86 *per cent.* in 1947-48 to 22.04 *per cent.* in 1951-52. Various statistics relating to commercial operations in c. 4 show that an average increase of 42.3 *per cent.* in sales of electricity by the fourteen area boards between 1947-48 and 1951-52 covered a range from 28.6 *per cent.* in South West Scotland to 51.1 *per cent.* in Southern England. Nine boards completed standard tariffs for various supplies during 1951-52, and comparative details of standard domestic tariffs prepared by eleven Area Boards are given in appendix thirty-six to the report.

Matters relevant to national fuel and power policy, broadly as presented by the Central Authority to the Committee presided over by Lord Ridley, are dealt with extensively in c. 5 of the report ; economical competition of nuclear fission with ordinary fuels in the production of energy is not anticipated for many years on present evidence. A smaller increase in the number of persons employed by the Authority and Area Boards was recorded in 1951-52, when an increase of 2,990 was equal to 1.7 *per cent.*, compared with 5,716 equal to 3.5 *per cent.* in 1950-51 ; c. 6 also gives an interesting account of the operation of machinery for joint consultation on conditions of employment set up under the Act of 1947, s. 53. Little progress seems to have been made by the East Midlands Consultative Council, on which, and others, local authorities are represented, with a resolution, mentioned in c. 7, seeking power to investigate the costings of the Central Authority in order to satisfy the Council that charges for electricity in bulk are fair and reasonable. Scope for much argument on financial matters is evident in c. 8 of the report, the statements of accounts and numerous additional analyses, but the sensible and frank discussion in the report of important and difficult problems suggests a disappointing result for hopeful critics. The fourth annual report abounds with evidence of intention to discover the most effective ways and means by which the Central Authority and associated bodies can give the highest possible standard of service to the nation, and of determination to give it.

OBSCENE PRINTS

From time to time magistrates' courts are confronted with problems raised by s. 1 of the Obscene Publications Act, 1857. The section is too long for verbatim quotation in these columns, but it may prove helpful to examine the salient features of the procedure it prescribes, and to relate them to some reported cases—particularly the recent and comprehensive review of the matter to be found in *Cox* v. *Stinton* [1951] 2 All E.R. 637; 115 J.P. 490.

The first point to note is that, unlike a complaint for a summons under the Summary Jurisdiction Acts, the complaint which initiates proceedings must be on oath. The complaint must vouch not only that obscene books or prints are believed to be in the possession of a particular person at a named place: the magistrates must also be satisfied that the matter in question is kept "for the purpose of sale or distribution, or exhibition for the purposes of gain," and at least one such article must have been "sold, distributed, exhibited, lent, or otherwise published at, or in connexion with such place."

How is all this brought home to the magistrates? Usually a police officer visits the premises in question and purchases an article of the type alleged to be obscene. This will be exhibited with the complaint. This helps the magistrates to be satisfied that the material complained of is "of such character and description that the publication of them would be a misdemeanour, and proper to be prosecuted as such." At this point it is worth noting that the publication of obscene matter is an indictable misdemeanour: the significance of the provision in the Statute of 1857 is that the same standard of obscenity obtains in the summary proceedings for seizure and destruction as for the sustaining of a conviction on indictment. There must be no question of an order for destruction merely because what has been seized is considered highly objectionable.

Upon being satisfied that the complaint is well-founded the magistrates next step is to issue a search warrant. The statute uses the equivocal word "may" in this connexion. Even if this is no automatic step, it is hard to conceive of circumstances which would justify the withholding of a search warrant once the magistrates are satisfied on the points outlined above.

The search warrant authorizes the person executing it to bring all the articles seized before "the magistrate or justices issuing the said warrant, or some other magistrates or justices exercising the same jurisdiction"; the latter must thereupon issue a summons "calling upon the occupier of the house . . . entered by virtue of the said warrant to appear within seven days . . . to show cause why the articles so seized should not be destroyed." The statute thus allows for the situation which may so easily arise—namely that the magistrates whose duty it is to decide whether or not the material seized shall be destroyed are different from those who inspected the articles exhibited with the original complaint. Since in the last resort any test of obscenity must have a subjective element about it, this may be an important circumstance for the defendant.

The statute makes it clear that the magistrates must "be satisfied that such articles or any of them are of the character stated in the warrant, and that such or any of them have been kept for any of the purposes aforesaid." Once they are so satisfied then "it shall be lawful for the said magistrate or justices, *and he or they are hereby required*, to order the articles so seized, except such of them as he or they may consider necessary to be preserved in evidence in some further proceedings, to be destroyed at the expiration of the time allowed for lodging an appeal . . . and such articles shall in the meantime be impounded." The italicized phrase is curious: it appears that the word "shall" in the preceding passage is thereby given the force of "must." The sense of the whole leaves no doubt that the court must order destruction once they find obscenity established. If they do not so find then, to quote the concluding words of this rambling section: "he or they shall forthwith direct them (the articles seized) to be restored to the occupier of the house or other place in which they were seized."

According to *Cox* v. *Stinton*, *supra*, the code of procedure laid down in the statute of 1857 is complete. In the words of Lord Goddard, C.J.: "It is different from any other class of proceedings coming before justices because . . . no offence is created by the Act of 1857. Publishing obscene matter is a misdemeanor at common law, and the Act was intended, not as an instrument of punishment, but as preventive legislation—to give the authorities the power of seizing and destroying obscene publications before they were distributed." His Lordship proceeded to hold that the time limit for summary proceedings prescribed in s. 11 of the Summary Jurisdiction Act, 1848, does not apply though "it may be that, when the goods were brought before them, if the justices thought that there had been such an unexplained or unreasonable delay as to be prejudicial . . . they would be entitled in their discretion to refuse to issue a summons."

Cox v. *Stinton*, *supra*, is of additional interest in that it lays down that a photographic negative may be a fit object for an order of destruction under the Act. It was argued that a negative was not likely to be "sold, distributed, exhibited, or lent," and that while prints from the negative might well be held to be "otherwise published" these words could not properly cover the negative itself. The Divisional Court held explicitly that "publication of the positive is publication of the negative," and, further, that "negatives . . . are in themselves pictures, and are pictures kept to be published." This is obviously a helpful clarification of a point that was open to doubt; it is perhaps surprising that it should not have been decided until 1951!

Two further comments may be made. The wording of the section makes it quite clear that the court must itself examine the matter brought before it, but it is not so clear as to how justices are to carry out this duty. The cardinal maxim that justice shall be done openly may be difficult to observe. It often happens that a very large quantity of matter is involved. (In *Cox* v. *Stinton*, *supra*, there were over 5,000 pictures to be considered.) Yet the summons expressly calls upon the defendant, if he so wishes, to "show cause" why the matter should not be destroyed. Strictly it seems that it is open to the defendant to separately challenge each individual item, especially as the statute ordains that matter not found obscene must be returned to him. Courts may find it necessary to examine the matter in private; but the announcement of their finding must clearly be made in open court, and, before it is made, the defendant should be asked to give evidence or make such observation as he may wish.

In this connexion the decision in *Scott* v. *Wolverhampton Justices* (1868) 32 J.P. 533, is apposite. This case makes it clear that the purpose to which an allegedly obscene print is directed will not necessarily avail to prevent its destruction. In the case in question there was no doubt that the writer of a book which was ultimately condemned as obscene had been inspired by high religious motives: but the court held that notwithstanding this, upon a definition it proceeded to lay down, the book must be held to be obscene. This definition is worth remembering. It comes in the judgment of Sir Alexander Cockburn, C.J., and reads thus: "I think the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and

corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall." Sir Alexander Cockburn, C.J., went on: "may you commit an offence against the law in order that thereby you may effect some ulterior object . . . which may be an honest and even a laudable one? My answer is, emphatically, No."

Here then, as clearly stated as it may be, is a ruling upon which justices may profitably approach this difficult matter. It is sometimes advanced by defendants in these cases that literature is of a "medical" or "scientific" character. It follows from the words just quoted that courts need to hold in mind not only the nature of the words or pictures complained of but the type of premises in which they were found, and the type of person for whom they were intended. It is obvious that a genuine scientific bookseller or distributor does not need to hide his light under a bushel. There is nothing obscene in medical information objectively presented. The test is, surely, *how* is this matter presented, whom would it reach, and what is its likely effect on them?

MORE ABOUT REFORM

[CONTRIBUTED]

I make no apology for a further article on Local Government Reform, since until some final decision is taken on the subject, discussion of it can do nothing but good. I do not, however, propose to submit any far-reaching suggestions as to the way in which I consider any reform should be carried out, nor to discuss any of the many proposals which have already been made. I merely propose to offer a few random comments on the subject generally.

In the first instance, may I refer again to the advantage of full, free and *public* discussion of the subject. Frankly, I think that at the present time too much discussion is taking place behind closed doors.

It is well known that the so-called re-organization committees of the various local authority associations are formulating proposals and discussing them in conference together, but the general body of members of the associations have no information whatsoever as to what is being said or done in their name.

When questions are asked or motions moved at annual conferences of the associations, those who seek information are put off with glib statements to the effect, first, that during these discussions secrecy is essential, and, secondly, that no one will be committed to any proposal until they have had a full opportunity of discussing it.

This is not, however, good enough.

Why is secrecy essential? What is to be gained by it? I realize only too well that, in ordinary local government work, discussions in committee are often vital in the early stages of the consideration of matters where the interests of third parties are affected. But local government reform is the business of every local authority, of every member of every local authority, and of every ratepayer in the country. Why then should such a vital subject as its reform be settled—and that is what it may well amount to—by a small caucus of members and officers?

It is easy to say that no one will be committed in advance of full discussion in the various associations. But what is such an assurance worth? Those taking part in the present talks will themselves be committed to any proposals which result from them and will do their utmost to secure their acceptance by their respective associations. And, in the absence of carefully thought out alternative proposals, they will undoubtedly succeed.

I well remember the famous "green book" issued in the strictest confidence and with a very limited circulation, some time about 1942 by the Board of Education. This was discussed *ad nauseum* behind closed doors, and on its foundations the Education Act, 1944, was built. But I am confident that had it been discussed publicly instead of in such "a hole in the corner" way, the 1944 Act might have been different. Many of the present "Excepted District" authorities might well have been full education authorities. As it happened, they were undoubtedly sacrificed in a forlorn hope of securing full local education authority status for former Part III authorities, with populations of 20,000 and less.

The moral is obvious. Those authorities, which are concerned about the present situation, should take steps to secure the calling of special meetings of their associations and demand full information *now*, as to the state of the discussions and the proposals being considered.

There is a school of thought which considers that any idea of reform should be abandoned, and that we should try and make the present system work. Personally, I am not unsympathetic to this idea. Historically, there is much to commend it.

We are frequently told that English local government is the admiration of the world. But it is not the result of any carefully thought-out plan. Like Topsy, it has just growed.

And yet, despite all the criticism of it, in which we all indulge from time to time, it certainly works. There may in places be waste and duplication, but can we really be satisfied that there would be less if the system were entirely re-organized?

Judging by the re-organizations in individual services which have been carried out piece-meal since the war, there is little justification for thinking that any greater efficiency or economy will be achieved. To those who think otherwise, I would suggest they compare the administrative costs of the education, police, fire, hospital, and health services at the present time with those of pre-war days. Likewise, they might ponder over the size of the administrative machines set up by the Gas and Electricity Boards.

There are undoubtedly sound reasons for being typically English and "leaving well alone." After all, what are the major complaints at present? They fall, I think, under one of three headings *viz.*: (1) the need for more living space for county boroughs; (2) the wide variation in the sizes of authorities of the same types; and (3) the disagreements concerning delegation between counties and the larger county districts.

But could not all these difficulties be overcome without any radical change in the present system? I should like to deal with each complaint separately and see how far it can be remedied under existing legislation.

First, let us consider the need for county borough extensions. They are often greatly exaggerated, or so it would seem, if we can rely, as I think we can, on the reception given to county borough extension bills in Parliament in recent sessions. The fact that such extensions as have been approved by parliamentary committees recently have been in respect of relatively small areas of land needed for housing purposes is significant. These extension bills have been carefully considered by Private Bills Committees of both Houses, with both sides represented by counsel, and the claims of the county boroughs thoroughly investigated. Yet in no case, of which I am aware, has a county

borough received a substantial extension. In most cases, they could have got just as much territory, and at considerably less expense, by agreement with the county council under the Local Government Act, 1933.

The latest case of this type, that of West Hartlepool, has received much publicity in the press during the last twelve months. The Bill sought to add to the comparatively youthful county borough of West Hartlepool not only the ancient borough of Hartlepool, incorporated by Royal Charter in 1200 A.D., but also over 4,000 acres of land in the adjoining rural district. The effect would have been to increase the area of the county borough from 4,473 acres to some 10,000 acres and to add nearly 20,000 to its population.

It was, however, impossible for the county borough to justify such an extension on any ground whatsoever, as events proved. The House of Commons Committee approved of the inclusion of the ancient borough, but reduced the area to be taken in from the rural district to a mere 504 acres—and even that was considered sufficient for the needs of the county borough for twenty years.

Following the decision in the Commons, the council of the borough of Hartlepool arranged for a plebiscite to find out the views of its electorate on the absorption of the borough in the county borough. The result of the plebiscite was an overwhelming confirmation of the action of the borough council in opposing the amalgamation. Nine out of every ten of the electorate expressed a desire for the town to remain a separate entity.

And are they not to be commended on their independence? A writer in these columns some twelve months ago expressed the view that the small and ancient chartered boroughs of this country, with traditions and independence of outlook built up over the centuries, were worth preserving, and there is much to be said for that point of view. The country would certainly be the poorer without them.

Notwithstanding the result of this plebiscite, the county borough pressed for the approval of its Bill before the House of Lords Committee. It was, however, unsuccessful. The Lords struck the amalgamation provisions out of the Bill, leaving the county borough to take over from the rural district the mere 504 acres approved of in the Commons.

It is difficult to understand on what grounds the county borough sought the vast extensions proposed in the Bill. They admitted that they had nothing to gain by the amalgamation proposals. All that they could do in support of this part of the Bill was to attack the smaller authority's services and suggest that it had insufficient financial resources to carry through its future development proposals. But what possible concern is that of the county borough?

Obviously, all that the county borough sought was what in the case of an individual would be called personal aggrandizement. In other words, it merely sought to increase its size for the sake of bringing its population nearer that mystic figure of 100,000, thinking that thereby it might be able to retain its identity and powers in any future re-organization of local government.

But in so doing it has put its own ratepayers and those of the opposing authorities to a great amount of unnecessary expense. I have had no personal experience of extension Bills since the war, but I should be very surprised if the total costs of all parties fell short of £10,000 and it may well be much more. This, however, takes no account of the time spent by the officials and staff of the various authorities on work in connexion with the Bill—time, which in these days, could be far better spent on other and more urgent work.

And the expenditure of all this time and money has resulted in the addition of a paltry 500 acres, which could probably have been obtained by negotiation without any expense whatsoever. While Durham county council may have an unenviable reputation in matters associated with its "closed shop" policy, it has not shown itself unwilling to negotiate with the county boroughs in the county on the matter of extensions. In recent years, it has made agreements with both Sunderland and South Shields, which, I understand, have resulted in extensions reasonably satisfactory to all concerned. And I believe that most counties, if properly approached, are willing to meet the proved needs of county boroughs.

Returning therefore to the broad issue of county borough extensions, it does seem that there is scope within the provisions of the Local Government Act, 1933, for all legitimate extensions and that no re-organization is necessary on this account.

The second complaint against the present system is the lack of uniformity in the size of authorities of the same types. Thus, we have county boroughs varying from 27,000 to over 1,000,000 in population; boroughs from 1,000 to over 200,000; and urban and rural districts with similar wide variations. This is, however, not necessarily a bad thing, and where alterations are really necessary, they can, except possibly in the case of county boroughs, be made by means of county reviews under the Act of 1933. Many alterations of areas and boundaries made under that Act in the 1930's have proved completely satisfactory in practice, and there is little justification for altering a procedure which is relatively of quite recent origin.

As to the small county boroughs, their position might easily be dealt with on comparable lines, by giving power to the appropriate Government Department, after due inquiry, to make orders, similar to review orders under the Act of 1933, extending their boundaries or reducing them to the status of non-county boroughs. And this, without any wholesale reorganization of our system of local government.

This brings me to the last point, and one which I realize is highly controversial, namely, delegation. The remedy is so simple that I am surprised that it has not been adopted previously.

At the present time, the services which can be delegated by county councils to district and borough councils are limited by legislation, and to a large extent the minor authorities are at the mercy of the county council. That authority can in the main decide the extent of the powers it shall delegate, and how the activities of the delegated authority shall be controlled. Obviously, this is a matter in which some simple reform is necessary.

In brief, I would suggest that the matter should be dealt with as follows:

(*a*) All county services, except possibly the police service, to be capable of delegation.

(*b*) All district councils over a given population, say 50,000, to have the right to claim the delegation of all services. This would to a certain extent follow the claiming procedure in respect of highways under the Local Government Act, 1929.

(*c*) The setting up of some independent body similar to the Local Government Boundary Commission to deal with—

(i) claims for delegation by authorities with a population of less than 50,000;

(ii) the method of financing delegated services, *i.e.*, whether the cost should be borne by the county council or the district council;

(iii) disputes between counties and county districts on any matters whatsoever associated with delegated services.

These proposals would, of course, need to be worked out in detail, but in my view they would resolve the major issues which cause dissension in local government today.

It may well be said that what I have suggested under the various headings does involve considerable local government reform. In defence of my suggestions, however, I would point out that they leave the essential structure of local government very much as it is today.

There is, in my view, no need for Royal Commissions, Departmental Committees, or " hole in the corner " negotiations on this matter. Basically, the structure of English local government is sound, and, having regard to the fact that the population is not evenly spread over the whole of the country, it largely meets the needs of the people.

All I am suggesting is the remedying of certain obvious anomalies, and a few changes designed to ensure that in the county areas local administration shall be true to its name and be as local as possible. LL.M.

WORK AFTER SIXTY-FIVE

The Report of the Royal Commission on Population* contained illuminating and vital information about the age distribution of the population of Great Britain.

Statistics for the period from 1851 to date and forecasts of the future position are shown in the following table :

Date	*Proportion, per* 1,000 *of the total population, in each age-group*		
	0–14	15–64	Over 65
1851	355	598	47
1939	214	697	89
1947	215	681	105
1977	194	646	160

Although some of the forecasts must be accepted subject to the validity of the assumptions about future births there is no such qualification about the over sixty-five's because as far ahead as the end of the present century the population over sixty-five will consist only of survivors of people already born. It is, therefore, quite certain that the number of old people will increase very considerably. With the continuing growth of medical knowledge there is good hope of further declines in death rates, but even if this improvement should not come to pass the number of people over sixty-five in Great Britain is expected to grow from 5.0 millions in 1947 to 7.3 millions in 1977. In the same period the numbers of the working population are unlikely to increase at all, in fact it is possible that they may decline.

In circumstances of this sort, and in the economic fight for survival in which the whole population of these islands is vitally interested, it becomes necessary to consider whether it is possible to increase the numbers of producers and diminish correspondingly the tale of the non-producers. The Royal Commission saw no reason why this should not be done. They stated that many men are fully capable of discharging the duties of ordinary paid employment after sixty-five and that many more would be capable of part-time work. We may confidently assume that in future the level of fitness at age seventy will be at least equal to that at sixty-five in the not very distant past and, therefore, may expect by individual choice a gradual extension of working life—provided sufficient inducements are offered.

An illuminating debate in Parliament on April 13, 1951, closely followed some references to the subject by the Chancellor of the Exchequer. He pointed out that whereas in 1950 for every man over sixty-five and woman over sixty there were very nearly five people of working age, in twenty-five years' time the probability is that the proportion will not be one in five but very little more than one in three. He asked employers and workers to consider very seriously the possibility of postponing retirements. The debate made it clear that members on both sides of the House were seized of the importance of allowing a man or woman to work beyond normal retiring age if desired, and the Parliamentary Secretary to the Ministry of Labour presented a number of useful practical suggestions for encouragement of the idea, one being that employers should review their pension arrangements to see that they do not put a barrier to the retention of older persons. In relation to local government one member suggested that it would be appropriate to retire the employee, pay him his pension, and then re-employ him at the appropriate rate for the job. It was generally felt that there should be no compulsion to work longer, and past fears of unemployment and present fears of blocked promotions were mentioned. The House eventually agreed that active steps should be taken by the Government to encourage the retention of the middle aged and elderly in employment.

Later in the year the Associations of Local Authorities considered their policy and the response was generally sympathetic to the Government's proposals. The County Councils' Association, for example, passed the following resolutions :

(*a*) That there should not be any alteration of the present law under which employees may retire at age sixty with forty years' service, or must retire at age sixty-five, unless service is extended or a new contract of service is entered into after retirement.

(*b*) That employment beyond age sixty-five must continue to be left to the absolute discretion of the local authority :

(*c*) That, subject to the foregoing resolutions, the Committee are in favour of steps being taken to encourage the retention of suitable employees in employment beyond the time at which retirement may occur voluntarily or by reason of attainment of the age of sixty-five, and with this in view recommend :

(i) that in the event of an employee agreeing to continue service without pension beyond the age of sixty-five, there should be added to his pension entitlement on retirement, and without further contribution on his part, the appropriate contributory fraction for the additional service, provided that a maximum of five years such additional service shall not be exceeded ;

(ii) that in the event of an employee entitled to retire on full pension before the age of sixty-five agreeing to continue service without pension beyond the age at which he can retire, there should be added to his pension entitlement on retirement, and without further contribution on his part, the appropriate contributory fraction for the additional service, provided that a maximum of five years such additional service shall not be exceeded;

(iii) that if a local authority wish to employ or retain a superannuated employee in their service they should continue to be enabled so to do, and be empowered to agree with the

* Cmd. 7695 June, 1949.

person concerned the terms of salary on reappointment without the disability imposed by s. 31 of the Local Government Superannuation Act, 1937, which discourages the employment of a pensioned employee by providing that his pension shall be reduced to an amount which, with the salary of the new employment, shall not exceed the salary upon which his pension was calculated.

Thus the view was that the general principle was sound and to be encouraged but that there should be no compulsion on either side.

We have not heard of any official expressions of opinion by the general body of local government employees: it seems that they will wish to weigh up carefully the effect of a longer working life on promotion prospects. A large education authority may be taken as an example. It employs the following numbers of teachers:

	Head Teachers	*Assistants*
Primary	500	2,500
Secondary	65	1,100

and the figures show that the chances of achieving a headship are not particularly rosy. The authority has for many years past required retiral at age sixty or thereafter as soon as forty years' service has been completed, in order to increase chances of promotion.

The police have been consistently in favour of earlier retirement for the higher ranks, being of opinion that "the ladder of promotion should be kept free from obstruction." The Police Federation have, therefore, asked that as an immediate measure the normal age of compulsory retirement for all ranks up to and including Chief Superintendents in forces other than the Metropolitan should be fifty-five, that is, a reduction of five years.

All these factors and interests must receive proper consideration and there is much to be said at this stage for leaving the matter for local decision. Only in the event of an unsatisfactory response need further national action be considered.

One last word on the superannuation question.

If the age of compulsory retirement is extended to seventy it is obviously reasonable that an employee who continues to serve until this later age should have the benefit of the extra service in the calculation of his pension and this would be in conformity with the National Health Service (Superannuation) Regulations which apply to employees of Regional Hospital Boards and Hospital Management Committees. By enabling a greater pension to be earned it would also serve to mitigate possible future need for general increases in pensions owing to increases in the cost of living, such as have arisen during recent years and have been provided for by the Pensions (Increase) Acts, 1944-1952.

Although such a provision would enable higher pensions to be earned by employees the total cost to the superannuation fund would be reduced owing to the later age of retirement and the shorter period for which the pensions would in all probability be payable. For example an officer who retires at the age of sixty-five has an expectation of life of 11½ years. If his pension is £400 per annum he would, therefore, receive in total £4,600. If he continued to serve until seventy and then received a pension of £450 a year his expectation of life would be nine years and he would receive in total £4,050, *viz.*, £550 less than if he had retired at sixty-five.

Similar considerations would apply in the case of an officer who, having reached age sixty and completed forty years' contributing service, under the present scheme would be entitled to a "full" pension (*viz.*, 40/60ths). The right to count a further five years' service towards his pension might serve as inducement to him to continue in service until sixty-five years of age. His pension (at sixty-five) would, therefore, be greater but the ultimate cost to the superannuation fund would be less than if he had retired at sixty.

Experience would show whether the prospect of earning additional pensions in this way would be a sufficient inducement to remain at work. With a two-thirds pension secured and income tax at its present level many officials might consider that the additional net pay received was insufficient compensation for the effort required. It may well be found necessary to amend s. 31 of the Local Government Superannuation Act, 1937, as recommended by the County Councils' Association and consider the re-engagement of pensioners on normal salaries.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Singleton, Birkett and Morris, L.JJ.)

WRIGHT *v.* CHESHIRE COUNTY COUNCIL

October 6, 7, 1952

Negligence—Council school—Schoolmaster—Physical training—Supervision—Approved system—Liability of education authority for injury to schoolboy.

APPEAL by defendants from an order of MCNAIR, J., dated April 4, 1952.

The plaintiff, a boy aged twelve years, was at a school managed and controlled by the defendant county council as education authority. During physicial training he was engaged with other boys in the exercise of vaulting a "buck," the instructor having left the boys to carry out the exercise themselves while he supervised other classes in the vicinity. The system being followed by the boys, who had all had experience of the exercise, was that each boy as he vaulted the buck waited at the receiving end to assist the boy next coming over, and then went to the end of the queue himself to vault in his turn. As the plaintiff was coming over, the school bell to indicate playtime rang, and the boy at the receiving end ran away. The plaintiff, who had no one to receive him, fell, and sustained injuries, and through his father he sued the defendant county council for damages. Evidence was given that the system of leaving the boys to carry out the exercise by themselves was approved in the training manual of the Ministry of Education, and was followed in schools throughout the country, but a physical training instructor gave evidence that he considered the practice dangerous. The learned judge found that the defendant council had been guilty of negligence in not ensuring that an adult was present at the buck to receive the boys as they came over. The council appealed.

Held, there was insufficient evidence to rebut the inference that it was reasonable to adopt a system which was generally followed successfully in practice, and, accordingly, the council was not guilty of negligence.

Counsel: *Nelson, Q.C.*, and *G. B. H. Currie* for the council; *Sir Noel Goldie, Q.C.*, and *Youds* for the plaintiff.

Solicitors: *Percy Hughes and Roberts*, Birkenhead; *Helder, Roberts and Co.*, for *John A. Behn, Twyford and Reece*, Liverpool.

(Reported by C. N. Beattie, Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Lord Merriman, P., and Davies, J.)

SANDERS (orse. SAUNDERS) *v.* SANDERS (orse. SAUNDERS)

October 6, 7, 8, 1952

Husband and Wife—Desertion—Decision inconsistent with previous High Court finding—Justices ignorant of previous finding—Order for re-hearing—Estoppel by record—Previous findings on same subject-matter when not directly in issue—Need to raise plea of estoppel before justices.

On January 23, 1950, the husband and wife parted and on February 21, 1950, the husband filed a petition for divorce on the ground of the

wife's cruelty. The wife filed an answer merely denying the charge. The case was heard by a commissioner who, on June 28, 1951, held that the charge of cruelty had not been proved, but that, in any event, if proved, it had been condoned and had not been revived on January 23, 1950, since on that date the wife had been ejected from the matrimonial home and was not herself guilty of desertion. The petition was, therefore, dismissed. On March 10, 1952, the justices heard two summonses issued by the wife alleging against the husband desertion and wilful neglect to maintain. The justices were not informed of the previous High Court finding on the question of desertion and dismissed the summonses on the ground that the wife had been guilty of desertion on January 23, 1950. On appeal by the wife,

Held: (i) since the charge of cruelty had not been proved, the commissioner's findings on condonation and the revival of the offence by the wife's desertion, were findings or matters not directly in issue, before him, and, therefore, they could not operate as an estoppel binding the justices; (ii) in any event, when there was an assertion of estoppel it should be brought to the notice of the tribunal alleged to be affected by it and supported by evidence of the matters from which the estoppel was said to arise, and neither of those steps had been taken; (iii) since there was a previous contrary finding of the High Court on the same subject-matter, of which the justices had not been informed, the case should be sent back to them for re-hearing.

Counsel: *Ellenbogen* for the wife; *McKinnon* for the husband.

Solicitors: *Asher Fishman & Co.*, for the wife; *Nash & Co.*, for the husband.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

ENGLAND *v.* ENGLAND

October 13, 14, 1952

Husband and Wife—Adultery—Evidence—Presumption—Inclination and opportunity—Summary Jurisdiction (Married Women) Act, 1895 (58 *and* 59 *Vict., c.* 39), *s.* 7.

From November, 1951, the wife and M became attracted to each other. M was a constant visitor to the room occupied by the wife, and on April 20, 1952, he spent the night with her in her room, because, the parties stated in evidence, she was ill. They admitted having discussed committing adultery, but said that they had decided not to do so, and they denied having committed adultery on April 6 or at any other time. On a summons by the husband under s. 7 of the Summary Jurisdiction (Married Women) Act, 1895, to discharge, on the ground of the wife's adultery, an order made against him on July 31, 1946,

Held: there was no rule of law that evidence of the conjunction of strong inclination with opportunity raised an irrebuttable presumption that adultery had been committed; although in the present case there was sufficient evidence to establish adultery, that evidence could be contradicted, *e.g.*, by the sworn testimony of the wife and M; and in the circumstances the decision of the justices to dismiss the summons was right.

Counsel: *Seuffert* for the husband; *C. D. E. Rich* for the wife.

Solicitors: *Ferris & Reed*; *Pratt & Wegg-Prosser*.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Finnemore and McNair, JJ.)

WOOLLEY *v.* MOORE

October 21, 1952

Road Traffic—Speed limit—Dual purpose vehicle—Carrier's "C" licence—Use at material time—No goods being carried—Road Traffic Act, 1934 (24 *and* 25 *Geo.* 5, *c.* 50), *sch. I, para.* 2 (1) (*a*).

Case Stated by Nottingham city justices.

At a court of summary jurisdiction at Nottingham an information was preferred by the respondent, Moore, a police officer, charging the appellant, Eric Bernard Herbert Woolley, with having on April 12, 1952, unlawfully driven a motor-van on a road at a speed greater than thirty miles an hour, the speed specified in sch. I to the Road Traffic Act, 1934, as the maximum speed in relation to a vehicle of that class or description, contrary to s. 10 of the Road Traffic Act, 1930, as amended by s. 2 of the Road Traffic Act, 1934.

At the hearing of the information the following facts were proved or admitted. On April 12, 1952, the appellant drove his Standard Vanguard motor-van at a speed of between fifty and fifty-five miles an hour along a road which was not subject to any speed limit. On inspection the van was found to contain no goods. It merely contained a driver's seat and a passenger's seat, there being no seats in the rear of the van, which was empty. There were windows in the back of the van, but no side windows, apart from those beside the driver's and passenger's seats. The van's unladen weight was one ton two cwt., and all its wheels were equipped with pneumatic tyres. The appellant was the director of a company which owned the van, and this company held a goods carrier's "C" licence for the vehicle granted under Part I of the Road and Rail Traffic Act, 1933. The van was duly licensed under the Vehicles (Excise) Act, 1949, and described as a "goods vehicle" for that purpose, appropriate duty on a vehicle of that description having been paid. The appellant had at times used the van for his own personal purposes and was at the material time testing it after certain adjustments.

The justices were of the opinion that the van was a "goods vehicle" as defined in sched. I to the Road Traffic Act, 1934, and was not a shooting brake or utility van, the dual purpose class of vehicle covered in *Blenkin* v. *Bell* (1952) (116 J.P. 317), which decided that the speed limit did not apply to a shooting brake which could be used for carrying either passengers or goods when in fact it was carrying passengers only. They further decided that the speed limit applicable was thirty miles an hour whether the van in the present case was being used for the carriage of goods or not. They, therefore, convicted the appellant, fined him 40*s.* and ordered his licence to be endorsed.

Held, that the decision in *Blenkin* v. *Bell*, *supra*, in no way turned on the fact that the vehicle with which the case was concerned was a shooting brake, but turned on the fact that the vehicle, constructed as a goods vehicle and also capable of carrying passengers, and bearing a carrier's "C" licence, was at the material time not being used for the carriage of goods, and that, therefore, the conditions of the "C" licence did not apply. The present case was, therefore, not distinguishable from *Blenkin* v. *Bell*, *supra*, and the case must be remitted to the justices with an intimation to that effect.

Counsel: *Skelhorn* for the appellant; *Cowley* for the respondent.

Solicitors: *A. J. A. Hanhart*, for *Clayton, Ellis & Massey*, Nottingham; *Savery, Stevens & Nutt*, for *R. A. Young & Pearce*, Nottingham.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MOONEY *v.* MOONEY

October 24, 1952

Bastardy—"Single woman"—Complaint by woman against her husband in respect of a child born to her when married to another man—Bastardy Laws Amendment Act, 1872 (35 *and* 36 *Vict., c.* 65), *s.* 3.

Case Stated by Lancashire justices.

At a court of summary jurisdiction a complaint under the Bastardy Laws Amendment Act, 1872, was preferred by the appellant, Marguerite Mooney, against her husband, William Mooney, alleging that he was the father of a bastard child born to her on April 21, 1948.

At the hearing of the complaint the following facts were proved or admitted. An illegitimate child was born on April 21, 1948, to the appellant, who at the time of its conception and birth was a married woman, the wife of a previous husband. She had lived apart from that husband since 1940 and had not seen him since that year. She obtained a decree *nisi* of divorce against him on May 11, 1948, on the ground of his cruelty, and that decree was made absolute on June 24, 1948. The appellant had been associating and committing adultery with the respondent for about a year before the birth of the child, and the respondent registered the birth of that child, described himself as the father, and his name appeared as such on the birth certificate. The appellant married the respondent on August 21, 1948, and from then until July, 1951, the respondent maintained the child. On July 25, 1951, the appellant left the respondent in circumstances which precluded her from obtaining an order against him under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, on the ground of desertion, and she unsuccessfully sought such an order on November 7, 1951. She did not live with the respondent after July 25, 1951, and had no intention of returning to him. The respondent alleged that he had been paying money each week to the appellant for the maintenance of the child and that he wished the appellant to return to the matrimonial home.

The justices were of opinion that the respondent was, in fact, the father of the child in question, but that the appellant was not a "single woman" within the meaning of s. 3 of the Bastardy Laws Amendment Act, 1872. Accordingly, they dismissed the complaint.

Held, that all the old authorities were to the effect that a married woman, whose husband was living apart from her through no fault of her own, could be regarded as a "single woman" *quoad* third parties, but no case had ever decided that a married woman could be "a single woman" *quoad* her own husband, and in the present case, where the appellant had ceased to live with her husband through her own act, it would be quite anomalous to hold that she was a "single woman" for the purposes of the statute of 1872. The justices had, therefore, come to a right decision and the appeal must be dismissed.

Counsel: *Homfray-Davies*, for the appellant. The respondent did not appear.

Solicitors: *Dubovie, Freeman & Co.*, for *A. D. Abrahamson & Co.*, Liverpool.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

HASSELL *v.* McAULEY

October 23, 1952

Agriculture—Order terminating occupier's interest—Occupier required to give up possession of land and house—"Land"—Agriculture Act, 1947 (10 *and* 11 *Geo.* 6, *c.* 48), *s.* 109 (2) (*a*).

CASE STATED by Somerset justices.

At a court of summary jurisdiction an information was preferred by the respondent, McAuley, an officer of the Somerset Agricultural Committee, against the appellant, Hassell, alleging that the appellant had failed to comply with an order dated August 27, 1951, made by the Minister of Agriculture and Fisheries under s. 17 (1) (*a*) of the Agriculture Act, 1947, directing that the interest of the appellant, who was the occupier of the land described in the schedule to the order, should terminate on January 1, 1952, and that the appellant still remained in possession of the land. At the time of the order a supervision order under the Act was in force in respect of the land. By the order of August 27 the appellant was ordered to give up possession, not only of the land but also of his house. The justices convicted the the appellant, who appealed.

It was contended on behalf of the appellant that, while the Minister had power to order a farmer to give up land, he had no power to order him to give up an " agricultural unit " which, by s. 109 (2) of the Act of 1947, is defined as " land which is occupied as a unit for agricultural purposes, including—(*a*) any dwelling-house or other building occupied by the same person for the purpose of farming the land . . . "

Held, that in view of the definition in s. 109 (2) (*a*), which showed what was included in " land," the order of the Minister was valid and the justices had come to a right decision. The appeal, therefore, must be dismissed.

Counsel : *Skelhorn* for the appellant ; *Wingate-Saul* for the respondent.

Solicitors : *Robbins, Olivey & Lake*, for *Forrester & Forrester*, Chippenham ; *The Solicitor, Ministry of Agriculture & Fisheries.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

JAMES *v.* DAVIES

October 21, 1952

Road Traffic—Excise duty—Rate chargeable—" Goods vehicle "—" Land rover " with trailer in which goods carried—Vehicles (Excise) Act, 1949 (12, 13 *and* 14 *Geo. 6, c. 89), ss.* 15, 27 (1).

CASE STATED by Pembrokeshire justices.

At a court of summary jurisdiction at Haverfordwest an information was preferred by the appellant, James, charging the respondent, Davies, with using a vehicle, which was alleged to be a goods vehicle, for the conveyance of goods without having paid the higher rate of duty chargeable in respect of a goods vehicle under sched. IV to the Act.

The vehicle in question was a " land rover." It was constructed for the carriage of goods, but at the material time no goods were being carried on the vehicle itself. The justices however, found that attached to the vehicle was a trailer containing potato trays. The vehicle was licensed only as a private motor-car. The justices were of opinion that the vehicle was not a " goods vehicle " because there was no evidence that it was being used for the conveyance of goods, and they dismissed the information. The prosecutor appealed. By s. 27 (1) of the Excise (Vehicles) Act, 1949, " ' goods vehicle ' means a mechanically propelled vehicle . . . constructed or adapted for use and used for the conveyance of goods or burden of any description, whether in the course of trade or otherwise."

Held, applying *Carrimore Six Wheelers, Ltd.* v. *Arnold* (1949) (113 J.P. 456), that, as the vehicle was a mechanically propelled vehicle conveying goods, it did not matter whether the goods were laden on the vehicle itself or on a trailer which it was drawing, and, therefore, it was a " goods vehicle " within the definition in s. 27 (1). Accordingly, the case must be remitted to the justices with an intimation that the case was proved.

Counsel : *J. P. Ashworth* for the appellant ; *Skelhorn* for the respondent.

Solicitors : *Treasury Solicitor : A. J. A. Hanhart.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

NEW COMMISSIONS

HERTFORD COUNTY

John Stuart Bass, Ruthwell, Lucton's Avenue, Buckhurst Hill, Essex.

KENT COUNTY

Frederick Frere Charles Hodges, 1, Harland Avenue, Sidcup.

Harry Jones, 74, Woodland Way, West Wickham.

Stuart Kaye Machattie Powell, Went Farm, Speldhurst.

Brigadier Bernard Springett Watkins, C.B.E., Highfield, Pennington Road, Southborough, Tunbridge Wells.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 92.

THIRTY-THREE DEFENDANTS SAT ON THE GRASS

On October 11, 1952, thirty-three defendants were summoned to appear at Pontefract Magistrates' Court to answer summonses laid under s. 14 of the Criminal Justice Administration Act, 1914, alleging the commission of unlawful and wilful damage to growing grass in a pasture by the river side at Wentbridge.

For the prosecution, evidence was given by a botany master at a local school that the growth of grass could be retarded by pressing down the soil round it. Pressure would also damage tiny cells or cause " bleeding " by bruising the surface. Damage caused by a person sitting on grass was assessable, said the witness, but only an agriculturalist could assess it commercially.

Another prosecution witness estimated the damage caused to the grass at 6*d.* a person, and when asked how this figure was arrived at, witness stated that he estimated that each defendant had occupied an area of about one square yard. Witness further stated that it would take " quite a while " for the grass to recover from the damage it had suffered by being sat on.

The Bench retired, and upon their return the chairman stated that it was felt that some measure of temporary damage had been done to the grass which the court assessed at 1*d.* a person, and each defendant was fined 5*s.*

Mr. Ralph Sweeting, M.A., LL.B., clerk to the County Justices sitting at Pontefract, to whom the writer is indebted for this report, states that the pasture concerned is a popular spot for picnics and large numbers of people wander there and sit or lie down during the summer months in spite of extensive notices against trespassing.

COMMENT

It is not surprising to read that the Bench retired before announcing their decision, for the issue they had to decide raised a problem which, while not novel, is always difficult to determine.

It will be recalled that s. 14 of the Act of 1914 enacts that anyone who wilfully or maliciously commits any damage to any real or personal property whatsoever, either of a public or private nature, not exceeding £20 shall be liable to three months' imprisonment or a fine of £20 if the damage exceeds £5 and to two months' imprisonment or a fine of £5 if the damage does not exceed £5. It has long been recognized that the section was not intended to give a summary remedy for an alleged trespass and that before a court may convict it must be satisfied that actual damage has been caused as damage will not be presumed in the absence of proof.

There have been a large number of High Court decisions upon this point, and two old cases indicate the narrow line which separates cases falling within the section from those falling without. In *Gayford* v. *Chouler* (1898) 62 J.P. 165, a man wilfully and maliciously trespassed, after a request not to trespass, on a grass field where the grass was long. The court was satisfied that he had damaged the grass by walking over it to the value of 6*d.* and the High Court held that he had been rightly convicted.

In *Eley* v. *Lytle* (1886) 50 J.P. 308, Mr. Eley, while playing football, trespassed on a grass field and was convicted by the justices of unlawfully and maliciously doing damage with intent to destroy grass for the food of beasts. The High Court quashed the conviction, and the case settled beyond doubt that the justices have not jurisdiction to convict for a mere act of trespass where the damage is inappreciable.

In the present case it may be thought that damage assessed by the court at 1*d.* in these days of depreciated currency cannot be far removed from damage which properly might be described as inappreciable.

R.L.H.

No. 93.

OF INTEREST ONLY TO LONDONERS

A retired naval lieutenant-commander was defendant in an unusual case heard at Mansion House Justice Room on October 14, 1952. The first charge alleged that the defendant had driven a motor-car mainly for the purposes of advertisement in a scheduled street, *viz.*: Cannon Street, contrary to reg. 28 of the London Traffic (Miscellaneous Provisions) Consolidated Provisional Regulations, 1934. The second charge alleged that defendant on the same date had unlawfully carried a placard in Cannon Street, a street within the general limits of the Metropolitan Streets Act, 1867, when riding in a motor-car contrary to s. 9 of the Act. The third charge alleged that the defendant while driving a vehicle in Cannon Street did occupy such a position as

prevented or interfered with his having a full and uninterrupted view of the traffic on such highway in front and abreast of him on each side contrary to the London County Council byelaw dated July 23, 1912.

For the prosecution, evidence was given that defendant was stopped in Cannon Street driving a motor-car which was plastered with printed notices in respect of " Equal pay for women." On top was a wooden framework with a mast which had a placard about 5 feet by 3 feet attached with the words " Equal pay—news van. Ladies please check." At the rear of the framework was the upper part of a child's cot which had three placards fixed to it. Those on the off and near side, each about 2 feet square, read " Road courtesy. Stop at the Zebras. Ladies first and last." The third placard at the rear about three feet by two feet read " Wanted 1,000,000 women for equal work. Why not equal pay?"

There were other placards on the body and at the front of the car and on the near and off side rear windows were posters about two feet square each of which read " Common Justice." On the front off side window which was raised were two pamphlets stuck on the inside of the window one of which was 11¼ inches by 8½ inches.

A police constable stated that he could not see the driver when standing beside the off side driving door, but he managed to attract his attention, and the latter lowered the window and when asked what he was doing said: " I am delivering letters." Defendant gave the constable one of the pamphlets, and when told summonses would be applied for, said: " I am delivering letters in the N.E. corner of London. I claim I am not advertising. I am not selling anything." The front driving window consisted of a front pivoting part which was eleven inches at the base and nine inches at top and a window capable of raising and lowering which was one foot ten inches at base and one foot 9¼ inches at top. The steering wheel was about level with line dividing the two windows.

The police constable, in cross-examination, denied that there was a gap between the two pamphlets on the front off side window.

The defendant, who pleaded not guilty to all charges, denied that he was using the car mainly for advertisement and also disagreed that the notices were " advertisments." He described himself as a publisher who was delivering letters and pamphlets in the same way as a newspaper van delivers its papers and claimed that he had ample view through the cracks round the pamphlets and through the pivoting part of the window. The court held the case proved, but decided that the first and second charges were practically alternatives. A fine of £4 was imposed on the first charge and 40*s.* on the third.

COMMENT

The writer appreciates that this case is of limited interest only to readers, but trusts that the unusual nature of the charges and of the evidence may be regarded as sufficient justification for reporting the case.

Regulation 28 of the London Traffic Regulations, 1934, forbids any person in a scheduled street either wholly or mainly for the purpose of advertisement to wear fancy dress or other costume or to ride, drive, conduct, use or employ any animal or vehicle of any kind. Scheduled streets are defined in reg. 26 and reg. 32 provides for a maximum fine of £5 for any contravention of the Regulations.

(The writer is greatly indebted to Mr. C. W. Burman, clerk, Mansion House Justice Room, for information in regard to this case.)

R.L.H.

PENALTIES

Oxford Assizes—October, 1952—stealing postal packets (two charges) —thirty months' imprisonment. Defendant, a thirty-two year old postman, asked for four offences of opening letters to be taken into consideration. Total amount stolen was £1 5*s.* Defendant pleaded that his wife's adulterous association with another man had upset his balance. Mr. Justice Stable said that such offences struck at the very roots of civilized life.

Blackwood—October, 1952—(1) failing to keep a record of the movement of thirteen pigs, (2) failing to isolate them. Defendant, a farmer, went to market and bought thirteen little pigs. On his way home he found two customers each of whom took four pigs. Defendant, who said that he had made a mistake in not taking out three licences for removal from the market instead of one, was fined a total of £2.

Thornbury — October, 1952 — (1) selling chocolate confectionery without a Ministry licence, (2) failing to keep an accurate record of purchases of chocolate, (3) obtaining chocolate for retailing without Ministry authorization, (4) selling chocolate without receiving personal points from the purchasers—fined £6 on each charge and to pay £3 3*s.* costs. Defendant, a hairdresser, exposed the chocolate for sale in his shop window. Defendant said he had bought it from a passing lorry driver who told him it was surplus chocolate.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

THE FRIENDS OF THE CHILDREN

A year ago the press and the B.B.C. reported the suggestion I made in my presidential address to the Association of Children's Officers—that there is need of some unifying and wide organization, which would gather up and focus the efforts of men and women of goodwill on behalf of deprived children who need help. I suggested the name " Friends of the Children " for such a society—that someone would have to initiate it and a devoted few would have to get it going. It would have no axe to grind, no vested interest to serve. It could keep an eye on legislation, discover any deficiencies in public provision—and there are some—and hammer out suggestions for their remedy.

Since that time I have been in negotiation with organizations who expressed interest in the idea, and feel that the time is now ripe to take it a stage further.

My inquiries have led me to believe that there is need for some country-wide organization under which local branches in every county, borough or other centre of population could be formed of individual men and women who are truly concerned with the welfare of children and would like to make their contribution towards it. Such individuals would probably for the most part not be professional or technical experts, for indeed the idea of this new organization would be to mobilize the goodwill and interest of the ordinary citizen. The branches would be concerned not only with the welfare of individual children brought to their notice as needing help, but also with children in groups. A function of the whole organization would be to raise funds to promote the welfare of needy children. It would be democratic and local branches would arrange their own constitution and affairs within the framework of the organization. Finally, there would be needed a small national headquarters to be both the link between the branches and the place to which branches could refer any problem which they found impossible to solve locally.

The " Friends of the Children " would avoid overlapping with the functions of other organizations rather would it seek to secure, not for the individual child in need, the benefit of such help as may be already available, or to bring into being necessary measures of assistance not already forthcoming or foreseen. Whilst seeking help for the individual child from local authorities and voluntary societies, it would doubtless be able to assist such authorities and societies, in many ways, in its turn.

The " Friends of the Children " would doubtless take a special interest in those unfortunate children whose difficulties are not amenable to remedy under any existing legislation.

Any person (or existing social organization) who feels able to help with this project is invited to write to the undersigned with a view to further action.

Yours sincerely,
EDWIN AINSCOW.

80, Tattenham Grove,
Tattenham Corner, Epsom.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

May I with all respect, take exception to the comment on No. 80 under Law and Penalties in Magisterial and other Courts in your issue dated September 20, 1952.

I am a Superintendent of Police with nearly thirty years service and have had an unblemished driving licence since 1922. With regard to the case in question I consider that the motorist was quite rightly charged by the police and convicted by the bench of magistrates.

I also consider that the facts do not justify a special reason for not imposing disqualification and I am quite sure the Lord Chief Justice would agree.

There is a growing tendency to excuse the motorist for his misdeeds, a tendency that has been apparent ever since the passing of the Road Traffic Act, 1934, when it became possible, absurdity of absurdities, to find one not guilty of manslaughter but guilty of dangerous driving.

The one indisputable fact about the case in question was that a man was drunk in charge of a motor vehicle on the public highway, his

defence has no bearing on the seriousness of the offence, and should not have affected the punishment.

No one will deny that the man was, because of the intoxicating liquor he had consumed, other than normal and anyone with the slightest knowledge of the effects of drink will know that at any moment he may have decided to drive the car, perhaps with disastrous consequences.

When considering drunken, dangerous or careless driving one should remember that in the year 1938, there were 233,359 casualties on the road in England and Wales, 6,648 of whom were killed, and in the year 1951 there were 216,493 casualties with 5,250 deaths. A negligible difference in spite of the millions of pounds that must have been spent on Road Safety Measures in the ensuing years.

The police are only interested in convictions, say the average motorist, but it has been my experience that the majority of police officers are interested only in making the roads safer for human beings. No man can regularly render first aid to broken bodies, watch the pain and suffering and endure the fearful task of breaking the news to mothers, wives, etc., of the death of their nearest kin as the policeman does, without feeling a strong desire to do something to stop this slaughter of the innocents and I am of the definite opinion that there will be no marked decrease in casualty figures until police action is more suitably supported by magistrates and juries.

Punishment should be a deterrent particularly in motoring cases and a penalty of £10 to a man who probably owns a motor-car worth £1,000 is hardly a deterrent to an offender let alone others who may hear of the case.

In conclusion may I say that police action in this case was supported inasmuch that the magistrates after due deliberation convicted and fined the defendant.

I remain,
Yours faithfully,
OBST.

[Our contributor does not recede from the attitude he took up, but we think our readers will like to read both sides of the question.—*Ed., J.P. and L.G.R.*]

PERSONALIA

APPOINTMENTS

Mr. J. Dunbar has been appointed clerk to the Burnham-on-Sea urban council; he has also been appointed chief financial officer. Mr. Dunbar served in the Royal Artillery during the war.

Mr. Frederick Dirs has been appointed assistant official receiver for the bankruptcy district of the county courts of Brighton, Eastbourne, Hastings and Tunbridge Wells.

Mr. Norman Cannell, B.Sc., assistant education officer to Halifax county borough for the last five years, has been appointed deputy chief education officer of Great Yarmouth.

The Society of Clerks of Urban District Councils of England and Wales at their annual meeting and conference elected Mr. Alfred S. Mays, O.B.E., of Barnet, as president of the Society; Mr. H. R. H. Smith, of Egham, was appointed honorary secretary, and Mr. F. Barnes, of Hoylake, was appointed honorary editor of the Society's journal.

Mr. W. M. Mell, clerk to Solihull U.D.C., has been appointed vice-chairman of the West Midland branch of the Society of Clerks of Councils.

RETIREMENT

Mr. A. N. Whiston, coroner for South Derbyshire for thirty years, has retired. His successor is Major T. H. Bishop, coroner for Derby Borough and Burton-on-Trent.

OBITUARY

We announce with regret the death of Sir Ivor Brace, Chief Justice of North Borneo, Sarawak and Brunei who died in Singapore at the age of fifty-four after a short illness. Ivor Llewellyn Brace was born on May 13, 1898, the son of the Rt. Hon. William Brace, Parliamentary Under-Secretary at the Home Office, 1915-1918, and was educated at Wycliffe College and Cardiff University. After his call to the Bar by Gray's Inn in 1921 he practised for a short time on the South Wales Circuit. Subsequently he joined the Colonial Legal Service and after service as Crown Counsel was appointed Assistant Judge of the Protectorate Court of Nigeria in 1937. In 1942 he was promoted to be a puisne Judge in the High Court of Sierra Leone and in 1947 went to North Borneo as Chief Justice. Subsequently his jurisdiction was expanded to cover the adjacent territories of Sarawak and Brunei. Sir Ivor received his Knighthood in the New Year Honours this year.

Mr. Willis Clarke, chief constable of Derbyshire, died on October 15 at his home at Derby at the age of sixty-three. He joined the Derbyshire Constabulary in 1910 and rose through all the ranks to Chief Constable.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

CIVIL ACTIONS WAITING

Mr. A. A. H. Marlowe (Hove) asked the Attorney-General in the Commons whether he was aware that there were some 1,300 long non-jury actions and 400 short non-jury actions awaiting trial in the High Court of Justice, Queen's Bench Division, in London; that owing to the heavy lists in the assize courts there were on an average only three judges available to deal with those cases at present and that prolonged delay for litigants was inevitable unless prompt action was taken; and what steps were proposed to remedy that situation.

The Attorney-General replied that there was invariably a large number of non-jury cases awaiting trial in London at this time of year, owing to the number of cases set down during the Long Vacation and the judicial time occupied in sittings of the Court of Criminal Appeal and the Divisional Court. In addition, it had been necessary this year for two judges, who would otherwise have been available in London, to go to Liverpool to dispose of the civil actions awaiting trial there. But it was hoped that there would be at least four or five judges available to deal with non-jury cases in London for the remainder of this Term and that there would be a considerable reduction in the lists by the end of the Term. The Lord Chancellor was, however, keeping the matter under review.

Mr. Marlowe then asked whether the Attorney-General was aware that there were some 1,000 civil actions awaiting trial at Liverpool, Manchester, Birmingham and Leeds; that some thirty jury actions awaiting trial in London had been stood over until next term because judges were not available to take them; and whether sufficient commissioners would be appointed or other steps taken to ensure that the long delays now affecting litigation were reduced.

The Attorney-General replied that he was aware that there was considerable delay in bringing civil actions to trial at certain assize towns owing to the demands which the serious increase in crime made upon the time of Her Majesty's Judges. The Lord Chancellor was giving careful consideration to the steps which could be taken to remedy that state of affairs.

INVESTMENT OF COURT PAYMENTS

Sir H. Williams (Croydon, E.) asked the Attorney-General on whose advice moneys paid into court were temporarily invested.

The Attorney-General replied that the investment of moneys paid into court was in general governed by Rules of Court. The practice of the different divisions of the High Court varied, but where any choice of investment was permitted by the Rules it was the practice to accept the advice of the solicitors to the parties.

LEGAL AID AND ADVICE

Major W. W. Hicks-Beach (Cheltenham) asked the Secretary of State for the Home Department when he proposed to implement the provisions of s. 21 of the Legal Aid and Advice Act, 1949, having regard to the principle of allowing fair remuneration for the work actually and reasonably done.

The Secretary of State for the Home Department, Sir David Maxwell Fyfe, said he regretted he was not yet in a position to make any statement in that matter.

CRIMINAL LAW AND INSANITY

In the House of Lords, Lord Mancroft asked the Government if they would consider setting up a Royal Commission to examine the problem of insanity and the criminal law.

The Lord Chancellor, replying, said that was a problem which had been under examination by the Royal Commission on Capital Punishment appointed in 1949. The Government expected that the Royal Commission would include observations on the problem in their Report, which was likely to be available within the next few months; and in the circumstances they did not consider that any occasion arose for appointing a new Royal Commission with the particular function suggested by Lord Mancroft.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Monday, October 27

LICENSED PREMISES IN NEW TOWN BILL, read 3a.

HOUSE OF COMMONS

Monday, October 27

VISITING FORCES BILL (LORDS), read 3a.
CINEMATOGRAPH BILL (LORDS), read 3a.
AGRICULTURE (POISONOUS SUBSTANCES) BILL (LORDS), read 3a.

ADMISSION OF THE PUBLIC TO COMMITTEE MEETINGS

A private member's Bill which received some publicity last year included a provision extending the Local Authorities (Admission of the Press to Meetings) Act, 1908, to committees possessing full delegation of powers from their parent bodies. The Bill was not proceeded with because of its position on the order paper but in the new session just commenced it is possible that the sponsor of another, if not the identical Bill, dealing with the same matter, will be successful in the ballot.

Although the matter was discussed last year at 115 J.P.N. 115 and again at p. 35, *ante*, editorially, the present writer feels it would be desirable to consider whether it would in fact be a good thing that the press should be allowed to attend committees enjoying what are usually called executive powers. For whatever may be the final judgment of Parliament it is very unlikely that the majority of members and officials of local authorities, with many years' practical experience of committee procedure, will share this view, even less the opinion increasingly voiced of late in some quarters, that the general public should be admitted to all committees, whether acting with fully delegated powers or not.

The law at present provides that representatives of the press may attend meetings of local councils (including such bodies as education committees), unless by resolution in any particular case the council consider it to be in the public interest that they, the press, should not be present. Apart from parish councils, it would seem that the public have no specific right to attend council meetings, but it is the common practice for accommodation to be made available for them, although here, too, they can be excluded if the nature of the business warrants such a course. As the press is the only practicable means of communication to the people in general, it is perhaps convenient for the purposes of this article to treat press and public as one and the same thing.

The idea that public business is necessarily the business of the public in the commonly accepted sense of the phrase first seems to have made its *début* in the earliest days of the post-war period in international affairs, when "secret diplomacy" became almost if not entirely a term of reproach, and its converse "open diplomacy" was deemed to possess a magic all of its own, before which the most intractable of crises and intransigent of national representatives would be bound to melt into a state of ineffable concord and amity. But as we all learned so quickly, this was not to be the case, and discussion behind closed doors replaced the vituperative propaganda of the Soviet bloc and the unedifying wrangles between the opposing camps. To the extent that progress has been possible at all under prevailing conditions, it has been materially aided by these private deliberations.

Open discussion is not, therefore, the most effective means of dispatching public business, nor the best safeguard for the advancement of democratic institutions; it is both inexpedient and unnecessary, a fact which is as true in the realm of local government as in the affairs of nations.

It is, indeed, difficult to understand against what shortcomings or evils in local administration public discussion at all stages is intended to aim. To begin with, it is the public themselves who choose their elected representatives, and the essence of local representation is the knowledge that most electors will have of the character and fitness of nearly all candidates. Committee transactions are often concerned with quite difficult and even delicate negotiations such as those relative to property, which, if debated openly, might well result in serious detriment to the public interest. Without wanting to engage in scandal, members in committee sometimes feel obliged, as a matter of strict duty, to reveal information or express views distinctly unflattering to parties under discussion, which they would feel very chary of doing in public. Although in closed committee members would presumably enjoy qualified privilege so far as a possible slander action is concerned, one wonders, in view of the decision in *De Buse* v. *McCarthy and Stepney B.C.* [1942] 1 All E.R. 19; 106 J.P. 73, what their position would be if the same observations were audible to members of the general public. Qualified privilege or no, members of councils have not the protection with which staff associations so effectively provide officials, and with a natural desire to avoid being involved in costly litigation, it is likely that the free expression of important opinion would be stifled.

In addition to the possible undesirable consequences of frank speech, those with experience of committees and councils well know that the most diffident of members is not necessarily the least competent, and the councillor who is too bashful to speak in open council but is a tower of strength in committee is no unusual phenomenon. Is it desirable to muzzle him? On the other side of the medal, we all know the member who in council will play to the gallery whenever he gets the chance, irrespective of the value of the contribution he can make. Should he be given further opportunities for self-exhibition?

Whatever its faults in a somewhat individualistic and boisterous past, it is generally recognized today that British local government is of the highest standard of efficiency and probity, and the exceptional fall from grace of which we very occasionally read only serves to establish the rule. Is it possible, therefore, that a suspicion still exists that committees prefer to work in private because their deeds would not bear the light of day? If so, it is a view attributable to ignorance of the law and practice which closely control local government procedure. Any ratepayer, indeed, has a right under s. 283 of the Local Government Act, 1933, to inspect and take extracts from council minutes, including the minutes of all committees.

Again, is it thought that in secret conclave members are feathering their own nests? Section 76 of the same Act will give the lie to that, providing as it does for the disclosure, on the widest possible basis, of the personal interest of any member, and his withdrawal from participation in discussion, under pain of heavy fine. Nor is there any real danger of the clandestine expenditure of public moneys for illegal purposes, for, apart from the deterrents present within the domestic organization of the authority itself, such malpractices would never escape the eye of the District Auditor, an officer of the Central Government whose duty it is to ensure that every item of local government spending is strictly in accordance with some enabling statute. And last, but far from least, there always is the full council meeting, open to the press and usually to the public, where, if it ever were genuinely in the public interest to do so, a member could question and bring to light any committee action he considered irregular.

The promotion of democratic government does not demand that properly conducted committee transactions need be converted into some species of public performance. Rather, in ensuring that full and necessary discussion remains unhampered, it relies upon a sufficiency of statutory and other safeguards and on that high level of public responsibility of members and officials of which British local government can so justly boast.

AGRICOLA.

"BRING BACK THE CAT!"

The slogan "Equal Pay for Equal Work" has been much to the fore in controversies between men and women workers; but if a recent pronouncement from a spokesman of the General Post Office is confirmed, we are likely to hear of a widening of its application. A centralized bureaucracy is always open to the complaint that Government employees in the Metropolis are favoured at the expense of those in the Provinces, and it is good to know that the latter are alert in defending their just rights. Even if it can be established that living expenses are somewhat higher in London than in the country, any scale of subsistence allowances which seems to give undue preference to those working in the capital is bound to be jealously scrutinized by their colleagues employed elsewhere. And it is in accordance with the best traditions of democracy that those responsible should use equal vigilance in protecting the humblest and lowest-paid servants of the State as in watching over the interests of the highest ranks.

This principle being conceded, it has come as something of a shock to learn that, while the lowest grade of employees in the service of the Post Office in London are entitled to a weekly ration-allowance of 1*s.* 6*d.*, for those in Manchester the scale is only 1*s.* The injustice seems all the more severe when it is realized that the employees in question are, as a whole, inarticulate or, if that be too strong an expression, let us say not fully competent to assert their proper rights before the appropriate Tribunal. This depressed class, to whose plight timely attention has now been called, comprises some thousands of cats who, in Government offices outside London, scattered far and wide throughout the length and breadth of the land, perform such diverse and indispensable functions. Whether, in some Midland industrial centre, they engage with quiet efficiency in their predatory but useful activities of keeping down the rodent population of the buildings they inhabit; whether, in some prim Mancunian suburb, their sleek and glossy aspect confers that extra touch of smug complacency upon a Victorian Gothic edifice; whether, again, in some cathedral city, their grave impassivity does no more than display, for the benefit of their human colleagues, an edifying example of that sublime detachment which sits so well upon the public functionary; or whether in minute sub-post-offices, situated in remote rural areas, they provide comfort and companionship to lonely elderly ladies who divide their uneventful days between the conflicting claims of postal-orders, ice-cream, stamps and sweets—their disappearance would leave an aching void which no substitute staff could satisfactorily fill. And for these invaluable services the official scale of 1*s.* a week seems a miserable pittance indeed.

In the reasoned protest set out above we have referred only to cats in Government offices outside London. Having regard to the wide discrepancy of fifty *per cent.* between the metropolitan and provincial scales, public anxiety has naturally been aroused. Well-meaning inquiries, on behalf of the less fortunate section of the official cat population, have elicited from London Headquarters the haughty reply: "We have no cats at present on the pay-roll. The Ministry of Works has a highly efficient system for dealing with vermin." Here is as nasty, as sneaking an attempt to shirk responsibility—as cowardly an evasion of the main issue—as could be imagined. "No cats on the London pay-roll" forsooth! How many feline workers, we wonder, do London public buildings hold in abject servitude, dependent on the charity of their colleagues, in defiance of the Truck Acts, Minimum Wage Agreements, Trades Union Scales, and all the rest of the elaborate apparatus designed to protect the underprivileged worker from exploitation!

However, pride goes before a fall, and condign retribution has swiftly followed the arrogant pretensions of the Ministry of Works. That parsimonious Department has boasted of a substitute "system" which is capable of displacing the tried and trusted activities of a creature which even Shylock, hard-hearted skin-flint as he was, referred to as the "harmless, necessary cat." The shameful *débâcle* of the Ministry's new-fangled "system" has been staged, not in any mere post-office, but in that majestic Sanctum of British Justice, the Central Criminal Court.

A trial had reached the concluding stage; the prisoner had been convicted, and been asked if he had anything to say before sentence was passed. This was the solemn moment selected by the forces of disruption for demonstrating their contempt for law and order in the ministerial sphere. As the prisoner began to speak there suddenly appeared, on the floor of the Court, among the array of Counsel, a large black rat. With quivering tail and bristling whiskers it gazed intrepidly upon the impressive scene.

The subsequent proceedings of this temerarious rodent provide clear circumstantial evidence of his motives. Among representatives of the Bar opinion (as is, unfortunately, so often the case) was divided. Some took the view that the animal was merely extending (as it were by analogy) a proverbial privilege; if a cat may look at a king, a rat may surely gaze upon a representative of the Monarch in the person of a High Court Judge. Others averred that the rat had, in the course of subterranean transit, been misdirected to Newgate Street instead of to the Strand, its intended destination being the witness-box in one of the Courts of the Probate, Divorce and Admiralty Division, where its expert testimony was required on the reasons that had prompted it to leave a sinking ship. For (to quote Shylock again):

"There be land-rats and water-rats, land-thieves and water-thieves."

The event showed, however, that neither was the true explanation; the rat, bent on self-immolation in a revolutionary cause, was making a public demonstration against the Ministry and all its Works. Leaving the scholarly precincts of the barristers' seats, it sprang up the few steps to the public benches, and there assumed for the time being the passive *rôle* of spectator. The learned Judge, in the best traditions of forensic imperturbability, waited until the prisoner had made his statement, passed sentence upon him, and then, and not till then, assumed judicial notice of the intrusion. "We will clear the Court," he said, "as it is represented to me that an unauthorized animal has gained admission, and it is desirable that he or she should be discovered and suffer the proper sentence, if there is anyone who can inflict it."

With rather more than the usual alacrity the Court was vacated. We draw a veil over the tragic final scene, when the Ministerial minions, like so many outraged Hamlets, avenged the insult offered to their inefficacious cat-dispensing "system."

"How now? A rat? Dead, for a ducat, dead!"

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Criminal Law—*Corrective training—Conviction at quarter sessions resulting in probation order under Act of* 1907—*Effect of acting under para. 6 of sch. 8, Criminal Justice Act,* 1948.

With respect I agree with your answer to P.P. No. 3 at p. 268, *ante*, but I should like to ask if your answer would be the same if a probation order made under the Probation of Offenders Act, 1907, had been amended under the provisions of para. 6 of sch. 8 to the Criminal Justice Act, 1948. Having regard to the proviso to this paragraph it would seem that a probation order so amended could not be regarded as a conviction for the purposes of rendering a person liable to a sentence of corrective training. S.W.A.

Answer.

We agree with our learned correspondent. The order is to have effect as if it had been made under the Criminal Justice Act, 1948, and therefore it would appear that s. 12 (1) applies.

2.—Gas Act, 1948—*Recovery of charges—Summary procedure.*

By virtue of para. 22 of sch. 3 to the Gas Act, 1948, the area board is empowered to recover summarily as a civil debt moneys due to the board in respect of "the supply and fixing of any meter or fittings," provided that the amount due to the board does not exceed £20. I should be grateful for your opinion and observations as to whether or not the above mentioned para. 22 would permit the board to recover summarily arrears of instalments on goods (such goods being within the definition of fittings as laid down in s. 77 of the Act) supplied to consumers by the area board on hire-purchase terms where :

(i) The goods supplied (as for example a gas cooker) cost more than £20, but hire-purchase instalments in arrears are less than that sum ;

(ii) Instalments due are less than £20 in respect of goods which were supplied on hire-purchase at less than that figure.

If the strict interpretation is applied to the words "supply and fixing" and the phrase is taken to stand as a whole, I do not appreciate how the area board is authorized by the Gas Act, 1948 (if indeed it is so authorized) to recover either summarily or otherwise moneys due to it for arrears of instalments on goods rented by consumers on hire purchase terms. PUR.

Answer.

If the total amount of the instalments due to the board is less than £20, the money is recoverable summarily as a civil debt under the Gas Act, 1948, sch. 3, para. 22, whether the total original amount payable over a period was or was not over £20 and whether the instalments to be paid are more or less than £20, provided that not more than £20 is actually due and payable at the time of recovery.

3.—Guardianship of Infants—*Custody to mother—Subsequent divorce—Mother assumes maiden name for self and children—Objection by father.*

We are acting for a certain man whose wife has obtained an order against him for "custody and maintenance" of the children of the marriage under the Guardianship of Infants Acts. Our client has recently obtained a divorce against his wife and the order under the Guardianship of Infants Acts is still subsisting. We understand, however, that the wife is known by her maiden name, and also the children are also known by the same surname, and that the wife has got the identity cards and ration books altered at the food office to her maiden surname.

Our client is objecting to paying maintenance when both his former wife and the children of his previous marriage are known under another name, and he desires to know if there is any way of either forcing his wife to revert to his name or, if she will not do this, of obtaining a discharge of the order made against him.

Any assistance you might be able to give on this point would be greatly appreciated. S. NEMO.

Answer.

We know of no means by which the husband can force his wife to use his surname or to cause the children to be known by that name. A surname can be a matter of use and reputation, but the birth certificates of the children will continue to show their father's surname.

Although the justices can vary or discharge their order under s. 3 (4) of the Guardianship of Infants Act, 1925, it must be remembered that the first and paramount consideration must always be the welfare of the children (*see* s. 1 of the Act), and it is difficult to see how this question of the surname affects their welfare. It does not appear that the father wishes to obtain custody.

4.—Highways—*Dedication—Local authority.*

Where public streets or roads are laid out and constructed in new housing estates by the council under s. 79 of the Housing Act, 1936, what formal acts require to be executed, or conditions complied with by the council, before the public right to the new way is perfected, and maintenance thereof becomes a public charge. PERA.

Answer.

The public right to the way is perfected when they are allowed to use it with an intention by the owner of the soil to dedicate it, and such intention may be presumed from the absence of restrictions on use. Maintenance becomes a public charge at common law since s. 23 of the Highway Act, 1835, does not apply to such a street ; conditions precedent to the maintenance by any particular highway authority only arise when a local authority builds outside its own area and in the area of a rural district ; *see* Housing Acts, 1936, s. 81 (2) ; 1949, s. 12.

5.—Housing Act, 1936—*Compulsory purchase—Glebe land—Notice.*

The council own land at the rear of a trunk road and require further land fronting to the trunk road to provide a means of access. The land in question is glebe land being part of a vicarage garden. In the event of a compulsory purchase order being made under the Housing Act, 1936, should the requisite notice be served both on the vicar and on the Secretary of the Ecclesiastical Commissioners ? PON.

Answer.

Yes, but service is now on the Church Commissioners by virtue of the Church Commissioners Measure, 1947. If the purchase is under Part V of the Housing Act, 1936, the service is under the Acquisition of Land (Authorization Procedure) Act, 1946, sch. 1, paras. 3 (2) (3), 19.

6.—Husband and Wife—*Children of the marriage—Child born while mother under sixteen—Subsequent marriage to father.*

A bachelor, B, domiciled in England, is the father of A's child born when A is fifteen years. After A attains sixteen B and A marry. A applies for a maintenance order for herself and child alleging matrimonial offences against B. The Age of Marriage Act, 1929, s. 1 would have rendered the "marriage" of A and B void if contracted before or at the time of the birth of the child.

The questions for consideration are :

(1) Is the child legitimate from the date of the marriage ? (Legitimacy Act, 1926, s. 1 (1) and (2).

(2) Is the child a child of the marriage for the purpose of the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949.

At one time I thought the test was : could father and mother have contracted a valid marriage at the time of the birth of the child and in this case the answer would be No, but notwithstanding this, as B was not married to a third person at the time of the birth of the child, the child may be legitimate and if so must then be a child of the marriage.

Your opinion would be welcomed. "STRANGER"

Answer.

(1) In our opinion, yes, since neither party was married to a third person at the time when the child was born.

(2) We think so : *Millard* v. *Millard and Addis* [1945] 2 All E.R. 525 and *Colquitt* v. *Colquitt* [1947] 2 All E.R. 50.

7.—Landlord and Tenant—*Furnished Houses (Rent Control) Act,* 1946—*Provision of rent book.*

The local rent tribunal, pursuant to the Furnished Houses (Rent Control) Act, 1946, determined the rent of a basement flat of a property in this district and the rent was accordingly registered by me pursuant to s. 3 of the Act. The landlord has consistently refused to issue a rent book to the tenant and I cannot find that under this Act he is required to do so. I appreciate that under s. 6 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938, it is the duty of a landlord to provide a rent book but this is in respect only of dwelling-houses to which the principal Acts apply. Can you advise me please, under these circumstances, whether the landlord is under a statutory obligation to provide a rent book, and if so, the authority under which proceedings may be instituted. POLICA.

Answer.

There is no statutory provision in the Act of 1946 requiring the landlord to provide a rent book. Section 6 (2) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938, may apply in some cases,

i.e., where the services and furniture are insufficient to exclude the Rent Acts, although sufficient to attract jurisdiction under the Act of 1946.

8.—Licensing—*Occasional licence—Whether necessary for subscription ball where charge for admission includes right to be supplied with intoxicating liquor.*

A local hunt is proposing to organize a subscription dance at a private house in aid of the hunt funds. The price of the tickets will be inclusive, a firm of outside caterers providing a champagne supper and a bar for those attending. No money for drinks will be payable, the tickets including the right to have such liquid refreshment (if any) as the holder of the ticket may wish.

Is an occasional licence under s. 64 of the Licensing (Consolidation) Act, 1910, necessary? NORSE

Answer.

The scheme outlined seems to contemplate that the caterer will take a bulk quantity of intoxicating liquor to the dance and there appropriate to the contract such of it as is consumed by people who have paid in advance for their right to consume it. It is impossible to take a view other than that the opportunity of consuming intoxicating liquor is part of the consideration for the price of the ticket, even though the several amenities offered are indivisible.

In our opinion, an occasional licence is necessary.

We answered similar questions at 94 J.P.N. 29; 99 J.P.N. 13; 100 J.P.N. 110.

9.—Licensing—*Provisional on-licence—Premises not built because of post-war building licence problems—Scheme for "temporary" premises to be built on part of site designed to be occupied by larger premises.*

At the general annual licensing meeting of one of my divisions three years ago the justices granted a provisional licence for a new public house to be erected on a new building estate.

Today there is apparently still no hope of the necessary building licence being obtained within the near future, and the holders of the provisional licence wish to know if they can apply at the next annual meeting for a term licence for a temporary building to be erected on a part of the site on which the new building for which a provisional licence has been granted will eventually be erected. NOND.

Answer.

We think that application may be made for a term licence. We answered a similar question at 115 J.P.N. 381, and we also refer our correspondent to correspondence at 115 J.P.N. 75 and 267.

10.—National Assistance Act, 1948: ss. 43 and 45—*Proceedings for recovery—Person assisted and other persons.*

The above makes reference to proceedings against any other person who is liable to maintain the person assisted. Can there be any doubt that proceedings may be launched against the person actually assisted? I am a little puzzled by the words "any other person." FOO.

Answer.

In our opinion the words "any other person" mean what they say: that is, proceedings against the person assisted may only be instituted under s. 45 of the Act (Recovery in cases of misrepresentation or non-disclosure).

11.—Public Health Act, 1936—*Water Act*, 1945—*Recovery of expenses—Civil debt.*

The council supply water under the provisions of the Public Health Act, 1936. Section 44 (2) of sch. 3 to the Water Act, 1945, provides: "The undertakers shall also carry out any necessary works as aforesaid (maintenance, repair, or renewal) in the case of so much of any supply pipe as is laid in a highway and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the premises supplied by the pipe . . ." I shall be glad of your opinion as to whether the expenses of repairing a supply pipe in a highway can be recovered from the owner in the county court after the expiration of six months from the service of the demand therefor. Attention is drawn to s. 63 of sch. 3 where such expenses shall be recoverable summarily as a civil debt and presumably cannot be recovered in any other way. PRET.

Answer.

Such expenses are not recoverable in the county court. The only power to recover is given by the subsection.

12.—Rating and Valuation Act, 1925, s. 22—*Owner's drainage rates.*

This deduction is to be the average annual amount of such rate. Has there been a decided case or ruling as to what period should be taken as an equitable average? Should the assessment be reviewed at intervals when there is any change in the amount of the drainage rates payable? PSEUDO.

Answer.

We know of no decision on the period over which the average should be taken. An appropriate period appears to be the last five years. We do not think the matter should be reviewed when there is a change of drainage rate; otherwise there would be no point in taking the average.

13.—Road Traffic Acts—*Dangerous driving—Onus of proof—Accident while car being driven on its wrong side round a bend—Driver claims he was blown there by the wind.*

I am invited by the police to conduct a summary prosecution for dangerous driving in a case in which the only evidence is that the accused was on his wrong side of the road on a bend, plus his statement to the effect that he was blown there by a gust of wind. A serious accident resulted. I shall be grateful for the references of any cases which you consider may assist me.

I am aware of the fairly recent case in which a driver, who had apparently fallen asleep, was acquitted, even under s. 12. JELL.

Answer.

McCrone v. *Riding* [1938] 1 All E.R. 157, 102 J.P. 109, shows that an objective standard of good driving, fixed in relation to other users of the road, is required from all drivers. *Kay* v. *Butterworth* (1945) reported at 110 J.P. 75 decided that a driver who allows himself to be overtaken by sleep while driving *must at least be guilty of driving without due care and attention.* The judgment does indicate, however, that if the loss of control is due to something outside the normal control of the driver and not to any fault of his he will not be liable at criminal law.

We are not aware of the fairly recent case referred to by our correspondent.

Prima facie, a driver found on his wrong side on a bend, and involved in a serious accident in consequence, appears to be guilty of dangerous driving, and we think that the prosecution would be entitled so to present their case. If, being called upon by the court to make his defence, he were able to satisfy the court that when he was driving properly and carefully on the correct side of the road he was suddenly blown by a guest of wind on to his wrong side with the car temporarily out of his control he would be entitled to be acquitted; but the onus of so satisfying the court is on him.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

DURHAM COUNTY COMBINED AREA PROBATION COMMITTEE

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer for the South Shields area of the above county.

Applicants must not be less than twenty-three years nor more than forty years of age, except in the case of serving officers.

The appointment and salary will be in accordance with the Probation Rules and the salary will be subject to superannuation deductions.

The successful candidate will be required to pass a medical examination.

Applications, stating age, education, qualifications and experience, together with names and addresses of two referees, should be received by the undersigned not later than November 22, 1952.

J. K. HOPE,
Secretary to the Probation Committee.

Shire Hall,
Durham.

BOROUGH OF PORT TALBOT

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors, not exceeding forty-five years of age, having experience in local government law and administration, for the appointment of Deputy Town Clerk. The successful applicant will be expected to devote his whole time to the duties allocated to him.

The salary will be in accordance with Grade A.P.T. IX, £815×£40—£935 per annum.

The appointment is subject to : (1) N.J.C. Conditions of Service ; (2) Local Government Superannuation Act, 1937 ; (3) Satisfactory medical examination, and (4) Two months' notice on either side.

The council will be prepared to favourably consider a request from the successful applicant for housing accommodation, should same be desired.

Applications, giving name, age, full particulars of local government experience, also details of present and previous appointments held, together with the names of three persons to whom reference can be made, must reach me not later than noon, Saturday, November 22, 1952.

W. KING DAVIES,
Town Clerk.

Municipal Buildings,
Port Talbot.
November 4, 1952.

METROPOLITAN BOROUGH OF GREENWICH

Appointment of Law Clerk

APPLICATIONS are invited for the position of Law Clerk in the Legal Section of the Town Clerk's Department, Salary Grade A.P.T. V £595 p.a. to £645 p.a. plus London Weighting.

Applicants must be capable of carrying out conveyancing with slight supervision, and be thoroughly experienced in general legal work, including County Court and Magistrates' Courts proceedings.

Application forms and conditions of appointment obtainable from the undersigned. Forms to be received by me by Friday, November 14, 1952.

D. J. REASON,
Town Clerk.

Town Hall,
Greenwich, S.E.10.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Full-time Male and Female Probation Officers

APPLICANTS must be serving Probation Officers, or persons between the ages of twenty-three and forty possessing recognized social science qualifications. Appointment and salary according to Probation Rules, 1949/1952, with £30 Metropolitan addition. Subject to superannuation deductions and medical assessment. Motor-car allowance. Application forms, from the undersigned, to be returned within seven days (quoting L.364 J.P.).

C. W. RADCLIFFE,
Clerk to the Middlesex County Probation Committee.

Guildhall,
Westminster, S.W.1.

BOROUGH OF HESTON AND ISLEWORTH

Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor on the permanent staff of the Town Clerk's Department, at a salary in accordance with Grades A.P.T. VII and VIII (£710 × £25 — £835) plus London weighting (£20 or £30 according to age). Applicants must have had at least two years' legal experience since admission.

Applications, stating age, particulars of experience, and the names and addresses of three referees, to be delivered to the undersigned by November 21, 1952.

HAROLD SWANN,
Town Clerk.

Council House,
Treaty Road,
Hounslow.

WHITEHAVEN (CUMBERLAND) PETTY SESSIONAL DIVISION

Appointment of Clerical Assistant to the Clerk to the Justices

APPLICATIONS for the above post are invited from suitably qualified persons who will be required to devote the whole of his or her time to clerical duties in assisting the Clerk to the Justices. The Division is the largest in the county and every endeavour will be made to secure that the successful applicant will be transferred to the employment of the Magistrates' Courts Committee on April 1, 1953.

The salary payable will be at the rate of £400 p.a.

Applications, marked "Assistant," stating age, marital and health conditions, present and past appointments with full particulars of experience, and the names of two referees, must be received by me not later than November 22, 1952.

O. F. ORMROD,
Clerk to the Justices.

44 Duke Street,
Whitehaven,
Cumberland.

Printed in Great Britain by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex, and published each Saturday by the Proprietors, **Justice** of the Peace Ltd., at the Office of the "**Justice of the Peace and** Local Government Review," Little London, Chichester, Sussex. Registered at the G.P.O. as a **newspaper.** Saturday, November 8, 1952. **Price** 2*s.* 3*d.* **with Reports, post free** 2*s.* 5*d.*; without **Reports** 1*s.* 3*d.*, post free 1*s.* 5*d.* Subscription rates: £6 per annum with **Reports**; £3 10*s.* per annum without **Reports.**